

Serial No. 09/750,878  
Attorney Docket No. E0903  
Firm Reference No. AMDSP0371US

Reply to Office Action Dated June 3, 2004  
and Petition For A One-Month Extension Of Time  
Reply Dated October 4, 2004

## **REMARKS**

Following entry of the above amendment, claims 1-13 will be pending. Claim 1 has been amended to clarify the features of the present invention and more clearly recite that which the Applicant's regard as their invention. Claims 4, 5, 8 and 11 have been amended, without change in scope, to consistently recite the features of the invention.

### **I. DRAWINGS**

Formal drawings are submitted herewith with the margins in compliance with 37 CFR 1.84(g) and the lines, numbers and letters uniformly thick and well defined, clean, durable, and black in compliance with 37 CFR 1.84(l). No new matter has been added.

### **II. AMENDMENTS TO THE SPECIFICATION**

The Applicant has amended the disclosure to correct informalities. For example, typographical errors have been corrected. Further, amendments have been made to consistently identify the network medium, the network medium interface device 10, the MII 12, the network node 50, the operating system or application software 56, the system MAC 64 and to consistently use the term "MAC selection information." Additionally, the file path in the last line of the Abstract of the Disclosure has been deleted. No new matter has been added.

### **III. REJECTION OF CLAIMS UNDER 35 U.S.C. § 112**

Claim 1 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claim 1 has been amended to more clearly recite that which the Applicant's regard as their invention. Specifically, claim 1 has been amended to recite "extracting, from each of at least some of the incoming frames, both a source node address corresponding to a source node of an incoming frame, and a desirable transmission rate for transmitting data between the network node and the source node." This amended passage is clearly supported by and enabled by the specification as filed. See, for example, page 20, ln 6 to page 21, ln 22. Therefore, withdrawal of this rejection is respectfully requested.

#### **IV. REJECTION OF CLAIMS UNDER 35 U.S.C. § 102**

Claims 1-13 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Ptasinski et al., U.S. Patent No. 5,754,540 (“Ptasinski”). Withdrawal of the rejection is respectfully requested for at least the following reasons.

Ptasinski discloses a method for providing dynamic adjustment of frame encoding parameters to improve transmission performance for a transmitting frame being transmitted from a transmitting station to a receiving station over a transmission medium on a frame-based communications network. The transmitting frame includes a header segment and a payload segment. The header segment being transmitted using a fixed set of encoding parameters. The payload segment being transmitted using a variable set of payload encoding parameters. See, for example, Abstract, Fig. 6 and page 7, paragraph 117. However, Ptasinski does not disclose a network node that includes a network medium interface device that has at least two Physical Layer Devices (PHYs). Further, Ptasinski does not disclose that the one or more PHYs have different operating characteristics. Additionally, Ptasinski does not disclose controlling selection of an active PHY from among the PHYs based on capabilities of an outgoing frame destination node to which a frame is to be transmitted.

Claim 1 as amended includes, *inter alia*, the features “wherein the network node includes a network medium interface device which includes at least two Physical Layer Devices (PHYs), the PHYs having different operating characteristics; and controlling selection of an active PHY from among the PHYs based on capabilities of the outgoing frame destination node to which the frame is to be transmitted.” That is, the network node 50 includes a network medium interface device 10 which includes at least two Physical Layer Devices (PHYs 21 and 22). See, for example, FIGs. 1 and 3. According to one embodiment, information on other nodes of the network is gathered or updated by extracting the information from incoming frames. Next, the node capability information is stored. Then, the stored node capability information is used in selection a PHY as the active PHY for transmitting an outgoing data frame or packet. See, for example, FIG. 6 and page 14, lns 4-14.

In contrast, Ptasinski discloses a controller 300 which is a fully integrated MAC/PHY device that transmits and receives data. Controller 300 includes a digital PHY 320 having a FDQAM/QAM transmitter and receiver interfacing with the analog front end and a MAC 330.

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To communicate with other devices, controller 300 also includes an interface 360, such as a v.90 modem through v.90 modem interface or a 10/100 Fast Ethernet bus through a 10/100 Fast Ethernet interface. See, for example, FIG. 4a, page 6, paragraph 116. Since Ptasinski does not disclose a controller 300 having at least two PHYs, Ptasinski cannot disclose controlling selection of an active PHY from among the PHYs based on capabilities of the outgoing frame destination node to which the frame is to be transmitted.

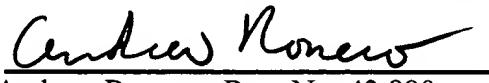
Therefore, since Ptasinski does not teach or suggest one or more of the features as recited in amended claim 1, amended claim 1 and the claims that depend therefrom are patentable over Ptasinski.

#### V. CONCLUSION

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present invention.

Any fee(s) resulting from this communication is hereby authorized to be charged to our Deposit Account No. 18-0988; Our Order No. E0903 (AMDSP0371US).

Respectfully submitted,  
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